

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Larry Hayes,)
Plaintiff,) C/A No. 0:07-3894-MBS
vs.)
Garry Bryant, Wally Hampton, Karen) **O R D E R**
Black, Joey Preston,)
Defendants.)

)

ORDER

Plaintiff Larry Hayes is a pretrial detainee at the Anderson County Detention Center in Anderson, South Carolina. On December 4, 2007, Plaintiff filed this action pursuant to 42 U.S.C. § 1983, alleging that his constitutional rights had been violated in various respects.

This matter is before the court on motion for summary judgment filed by Defendants on March 19, 2008. By order filed March 20, 2008, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff filed no response to the motion for summary judgment. On April 28, 2008, Plaintiff was granted an additional ten days to file a response to Defendants' motion. Plaintiff was advised that if he failed to respond, this action would be subject to dismissal pursuant to Fed. R. Civ. P. 41(b). Plaintiff filed no response to the motion or the order of April 28, 2008.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On May 13, 2008, the Magistrate Judge filed a Report and Recommendation in which he recommended that the within action be dismissed pursuant to Rule 41(b) for failure to prosecute. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within petition is dismissed with prejudice pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

June 10, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.